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Proposed Class*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

In re: Nestle Boost Nutritional Drink Litigation

Case No. 3:21-cv-09812-JSC

CLASS ACTION

**DECLARATION OF LAURENCE D. KING  
IN SUPPORT OF PLAINTIFFS'  
ADMINISTRATIVE MOTION PURSUANT  
TO LOCAL RULE 7-11 TO EXTEND  
BRIEFING SCHEDULE OR IN THE  
ALTERNATIVE MOTION PURSUANT  
TO LOCAL RULE 6-3 FOR  
ENLARGEMENT OF TIME**

1 I, Laurence D. King, declare as follows:

2 1. I am a partner at Kaplan Fox & Kilsheimer LLP, counsel for Plaintiffs. I submit this  
3 Declaration in Support of Plaintiffs' Administrative Motion Pursuant to Local Rule 7-11 to Extend  
4 Briefing Schedule, or in the alternative, Motion Pursuant to Local Rule 6-3 for Enlargement of Time. I  
5 have personal knowledge of the facts stated in this Declaration and, if called a witness, I could and  
6 would testify competently to them.

7 2. Plaintiffs have met and conferred and corresponded with Defendant Nestle Healthcare  
8 Nutrition, Inc. ("Defendant") regarding this matter. Plaintiffs' counsel met and conferred and  
9 corresponded with counsel for Defendant on February 11, 2025. Defense counsel would not agree to  
10 concurrent briefing schedules and a single hearing for class certification and summary judgment, stating  
11 that it would be beneficial and expeditious for the Court to resolve the summary judgment issues prior  
12 to class certification.

13 3. Defendant did offer a modest extension to the briefing schedule on its summary judgment  
14 motion as an alternative. Counsel for Defendant offered Plaintiffs' an extension of two weeks for their  
15 opposition to Defendant's motion for summary judgment. Counsel for Defendant would not agree to  
16 move the noticed hearing date, but agreed for Plaintiffs' opposition to be due March 4, 2025 with the  
17 reply to be due March 13, 2025. While the courtesy is appreciated, it does not resolve the inefficiency  
18 of briefing these related motions on separate schedules and having two separate hearings.

19 4. In this case, and under the current briefing schedule, it would be inefficient for the Court  
20 to entertain staggered briefing and hold two separate hearings on the related motions, both of which bear  
21 on the named Plaintiffs' adequacy and typicality.

22 5. If Defendant wished to truly resolve the issue of summary judgment as to named  
23 Plaintiffs in an expeditious and resource-effective way, it could have done so much sooner as depositions  
24 of named Plaintiffs concluded in October, 2024. At a minimum, Defendant should have informed  
25 Plaintiffs of its intentions with regard to summary judgment including the timing when the parties were  
26 negotiating an extension to the schedule for class certification – which Defendant vigorously opposed.

27 6. There have been very few modifications to the schedule in this case. On February 7,  
28 2022, the Court granted the Stipulation and Order Granting Plaintiffs Leave to File a Seconded Amended

1 Class Action Complaint, which set a briefing schedule for the motion to dismiss. ECF No. 10. Then, on  
2 September 27, 2024, the Court granted the Parties' request to postpone the Case Management  
3 Conference to give the parties the opportunity to mediate. ECF No. 74. Most recently, on December 4,  
4 2024 the Court granted Plaintiffs' Administrative Motion to Extend Class Certification Schedule. ECF  
5 No. 77.

6 7. Currently, the only deadlines in the case are those that the Court already set for class  
7 certification, and now those for Defendant's motion for summary judgment prescribed by the Local  
8 Rules. Plaintiffs' request for a concurrent briefing schedule will not change any other deadlines and will  
9 only serve to streamline the briefing schedules. If, alternatively, the Court grants the modest extension  
10 instead, no other deadlines will be affected.

11 I declare under penalty of perjury under the laws of the United States and the State of California  
12 that the foregoing is true and correct.

13 Executed this 13th day of February, 2025 at Oakland, California.

14  
15 /s/ Laurence D. King  
Laurence D. King